

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/577,977	DAVIES ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	COLIN STUART	3771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/18/10.
2. ☒ The allowed claim(s) is/are 1,6,33,47-54 and 56-62.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 3/29/10.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date <u>1/18/10</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date <u>3/29/10</u> .</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
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/COLIN STUART/  
Examiner, Art Unit 3771

/Justine R Yu/  
Supervisory Patent Examiner, Art Unit 3771



### **DETAILED ACTION**

1. This action is in response to the amendment filed 1/18/10. As directed by the amendment claims 2-5, 7-32, 34-46 have been cancelled and claims 56-62 have been added. As such, claims 1, 6, 33, 47-54, and 56-62 are pending in the instant application.

### ***Examiner's Amendment***

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. James Riek on March 29, 2010 (drawings) and on April 14, 2010 (abstract language & format).

The application has been amended as follows:

#### **In the drawings:**

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: submission of figure(s) showing the finger-operable lever surface having the pre-load which is formed by having a dual-gradient profile as claimed with a first concave, high gradient and a second convex, low gradient.

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

In the abstract:

The abstract has been replaced to read as in the following:

--A fluid dispensing device for dispensing a fluid having a viscosity of from 10 to 2000 mPas at 25°C, the dispensing device having at least one finger-operable lever pivotably moveable into the housing transversely with respect to the longitudinal axis of the fluid discharge device, to apply a force to an actuating member connected to the neck of a container, the device having a pre-load to prevent pivoting until a pre-determined force is applied, wherein the actuating member and the lever have surfaces which slidably interact, wherein the pre-load is formed by one of the surfaces of the actuating member or the lever having a dual-gradient profile. --

***Reasons for Allowance***

3. The following is an examiner's statement of reasons for allowance: when read in light of the limitations of the claimed fluid dispensing device, the prior art of record by itself or in combination does not disclose the specific structure and relationship as recited in claim 1 such that a pre-load is formed by one of the surfaces of the actuating member or finger-operable lever, having a dual-gradient profile with first and second portions being concave, high gradient and convex, low gradient respectively, such that

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the finger-operable lever is not able to transfer any significant force to the container along the longitudinal axis until the predetermined force is applied.

The closest prior art references are: Davies (2005/0224525), Simon et al. (WO 03/029105), and Grychowski et al. (6,745,760) which all relate to fluid dispensing devices with finger-operable levers.

The prior art of record does not disclose the structural limitations related to the pre-load being formed by one of the surfaces (of the actuating member or lever) having a dual-gradient profile including a first, concave, high gradient and a second, convex, low gradient as discussed above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to COLIN STUART whose telephone number is (571)270-7490. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/COLIN STUART/  
Examiner, Art Unit 3771

/Justine R Yu/  
Supervisory Patent Examiner, Art Unit 3771